MONTANA LEGISLATIVE HISTORY

Chapter 556 19 79

Bill H 494 S _____ Original bill & history ✓ C

H. Committee on Local Government			S. Committee on Local Government		
Hearing Date(s)	2/20	✓ C	Hearing Date(s)	3/8	✓ C
		C		3/23	✓ C
		C			C
		C			C
Date Out	2/20	✓ C		3/24	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

HOUSE BILL NO. 494

INTRODUCED BY DENNIS NATHE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE, CLARIFY, AND AMEND THE LAWS RELATING TO PUBLIC WATER SUPPLIES; AMENDING SECTIONS 75-6-102 THROUGH 75-6-104, 75-6-106, 75-6-107, 75-6-112, AND 75-6-113, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-6-102, MCA, is amended to read:

"75-6-102. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.

(2) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes creating a hazard to human health.

(3) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(4) "Drainage" means rainfall, surface, and subsoil water.

(5) "Safe Drinking Water Act" means 42 USC 300f and regulations at Title 40, CFR, Parts 141 and 142.

~~(5)~~(6) "Industrial waste" means any waste substance from the processes of business or industry or from the development of any natural resource, together with any sewage that may be present.

(7) "Maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to any user of a public water supply system.

~~(6)~~(8) "Other waste" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

~~(7)~~(9) "Person" means any individual, ~~firm~~, corporation, ~~water or ice company, public institution~~, association, partnership, municipality, ~~or~~ other political subdivision of the state, or federal agency.

~~(8)~~(10) "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of any state waters which exceeds that permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor or the discharge or introduction of any liquid, gaseous, solid, radioactive, or other substance into any state water which will or is likely

to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife. A discharge which is authorized under the pollution discharge permit rules of the board is not pollution under this chapter.

~~(9)~~(11) "Public water supply system" means a system for the provision of water for human consumption from any community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that serves 10 or more families, ~~or~~ 25 or more persons ~~for~~ daily, or has at least 10 service connections at least 60 days out of the calendar year.

~~(10)~~(12) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings, together with groundwater infiltration and surface water present.

~~(11)~~(13) "State waters" means any body of water, irrigation system, or drainage system, either surface or underground."

Section 2. Section 75-6-103, MCA, is amended to read:

"75-6-103. Duties of the board. (1) The board has general supervision over all state waters which are directly or indirectly being used by a person for a public water supply system or domestic purposes or as a source of ice.

(2) The board shall adopt rules and standards concerning:

(a) maximum contaminant levels for waters that are or will be used ~~as~~ for a public water supply system;

(b) fees for services rendered by the department in analyzing water and conducting inspections;

(c) monitoring, recordkeeping, and reporting by persons who own or operate a public water supply system;

(d) requiring public notice to all users of a public water supply system when a person has been granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;

(e) the issuance of licenses by the department to laboratories that conduct analysis of public water ~~supplies~~ supply systems;

(f) the siting, construction, operation, and modification of a public water supply system;

(g) the collection and analysis of samples of water used for drinking or domestic purposes;

(h) the issuance of variances and exemptions as authorized by the federal Safe Drinking Water Act and this part; and

(i) any other requirement necessary for the protection of public health as described in this part.

(3) The board may issue orders necessary to fully

implement the provisions of this part."

Section 3. Section 75-6-104, MCA, is amended to read:

"75-6-104. Duties of department. The department shall:

(1) upon its own initiative or complaint to the department, to the mayor or health officer of a municipality, or to the managing board or officer of a public institution, make an investigation of alleged pollution of a water supply system and, if required, prohibit the continuance of the pollution by ordering removal of the cause of pollution;

(2) have waters examined to determine their ~~purity~~ quality and the possibility that they may endanger public health;

(3) consult and advise authorities of cities and towns and persons having or about to construct systems for water supply, drainage, wastewater, and sewage as to the most appropriate source of water supply and the best method of assuring its ~~purity~~ quality;

(4) advise persons as to the best method of ~~purifying~~ treating and disposing of their drainage, sewage, or wastewater with reference to the existing and future needs of other persons and to prevent pollution;

(5) consult with persons engaged in or intending to engage in manufacturing or other business whose drainage or sewage may tend to pollute waters as to the best method of

preventing pollution;

(6) collect fees for services rendered in analyzing water and conducting inspections to cover costs of the service and deposit the fees collected in an earmarked revenue fund for use by the department;

(7) establish and maintain experiment stations and conduct experiments to study the best methods of ~~purifying~~ treating water, drainage, wastewater, sewage, and industrial waste to prevent pollution, including investigation of methods used in other states;

(8) enter on premises at reasonable times to determine sources of pollution or danger to water ~~supplies~~ supply systems and whether rules and standards of the board are being obeyed;

(9) enforce and administer the provisions of this part;

(10) establish a plan for the provision of safe drinking water under emergency circumstances;

(11) maintain an inventory of public water ~~supplies~~ supply systems and establish a program for conducting sanitary surveys; and

(12) enter into agreements with local boards of health wherever appropriate for the performance of surveys and inspections under the provisions of this part."

Section 4. Section 75-6-106, MCA, is amended to read:

HB 494

"75-6-106. Licensing of laboratories. (1) No laboratory analysis of water taken from a public water supply system or any report of such an analysis required by this part or a rule adopted under this part may be accepted by the department or board unless the analysis or report is made by the laboratory of the department or by a laboratory licensed by the department for such purposes. The department shall issue a license to any laboratory that can meet criteria for licensing established in the rules adopted by the board.

(2) An application for a license under this section shall be made on forms furnished by the department.

(3) A person aggrieved by a decision of the department to grant, deny, or revoke a license may appeal the department's decision to the board as provided in the Montana Administrative Procedure Act."

Section 5. Section 75-6-107, MCA, is amended to read:

"75-6-107. ~~Variance~~ Variances and exemptions. The department may grant a variance or exemption from the requirements of this part or the rules adopted under this part pursuant to the terms and conditions of the variance and exemption rules adopted by the board. A variance or exemption granted pursuant to this section shall be accompanied by a compliance plan specifying a time schedule for compliance. A person aggrieved by a decision of the

department to grant, deny, revoke, or modify a variance or exemption may appeal the department's decision to the board as provided in the Montana Administrative Procedure Act."

Section 6. Section 75-6-112, MCA, is amended to read:

"75-6-112. Prohibited acts. A person shall not:

(1) discharge ~~polluting--matter--of--any-kind~~ sewage, drainage, industrial waste, or other wastes that will ~~pollute--the-quality~~ cause pollution of state waters used by a person for domestic use or as a source ~~of~~ for a public water supply ~~by-a-city,-town,-public-institution,~~ system or water or ice company;

(2) discharge ~~human--excrement,~~ sewage, drainage, ~~refuse,-or-polluting-matter~~ industrial waste, or other waste into any state waters or on the banks of any state waters or into any abandoned or operating water well unless the sewage, drainage, ~~refuse,--or--polluting--water~~ industrial waste, or other waste is ~~purified-to-render-it-harmless~~ treated as prescribed by the ~~state~~ board;

(3) build or operate any railroad, logging road, logging camp, or electric or manufacturing plant of any kind on any watershed of a public water supply system unless:

(a) the water supply is protected from pollution by sanitary precautions prescribed by the ~~state~~ board; and

(b) a permit has been issued by the department after approval of detailed plans and specifications for sanitary

precautions;

(4) construct, alter, or extend any system of water supply, water distribution, sewer, drainage, wastewater, or sewage disposal without first submitting necessary maps, ~~and~~ plans, and specifications to the department for its ~~advice~~ review and approval;

(5) operate or maintain any public water supply system which exceeds a maximum contaminant level established by the board unless he has been granted or has an application pending for a variance or exemption pursuant to this part."

Section 7. Section 75-6-113, MCA, is amended to read:

"75-6-113. ~~Penalty~~ Penalties. (1) ~~Any~~ A person ~~violating~~ who violates this part or any rule or order ~~of the board or department~~ issued under the provisions of this part shall be guilty of a misdemeanor and upon conviction shall be fined not less than $50 or more than $500. Each day upon which a violation of this part or any rule or order of the board under it occurs shall be considered a separate offense.

(2) A person who violates this part or any rule or order of the board issued under the provisions of this part is subject also to a civil penalty of not less than $50 or more than $500. Each day upon which a violation of this part or any rule or order of the board under it occurs is a separate violation.

(3) Enforcement remedies under this section are cumulative, and enforcement of this part or rules or orders issued under it by injunction or other appropriate remedy is not barred.

(4) Civil fines collected pursuant to this section shall be deposited in the state general fund."

NEW SECTION. Section 8. Review of master planning areas. Maps, plans and specifications required by 75-6-112(4) may not, be reviewed or approved by the department for master planning areas adopted pursuant to Title 76, chapter 3, until the department has received from the local governing body the lot fees and notices of certification required by 76-4-105(2) and 76-4-127.

Section 9. Saving clause. This act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this act.

Section 10. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-

HB 474

CHAPTER NO. 556

HOUSE BILL NO. 494

INTRODUCED BY NATHE

IN THE HOUSE

January 31, 1979	Introduced and referred to Committee on Local Government.
February 20, 1979	Committee recommend bill do pass. Report adopted.
February 21, 1979	Second reading, do pass.
	Considered correctly engrossed.
February 22, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 22, 1979	Introduced and referred to Committee on Local Government.
March 24, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 26, 1979	Second reading, pass consideration.
March 27, 1979	Second reading, concurred in.
	On motion rules suspended. Bill placed on calendar for third reading this day.
	Third reading, concurred in as amended.

IN THE HOUSE

March 28, 1979	Returned from second house. Concurred in as amended.
March 31, 1979	Second reading, amendments adopted.

April 2, 1979

Third reading, amendments adopted. Sent to enrolling.

Reported correctly enrolled.

LOCAL GOVERNMENT COMMITTEE

46th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 490	To require county clerks to charge a fee for copies of birth and death certificates; state agencies to pay fees for recording documents...	2/1/79	BURNETT	Mon. Feb. 19	DO PASS	2/12/79
HB 494	Generally revise & clarify & amend laws relating to public water supplies	2/1/79	NATHE	Tues. Feb. 20	DO PASS	2/20/79
HB 535	Requiring Co. Commissioners to set salaries of deputies & assistants at not less than 75% or more than 90% of the salary of officer under...	2/2/79	G. JOHNSTON	Sat. Feb. 10	AMENDED DO NOT PASS	2/19/79
HB 559	Increase from $2 to $4 the fee a sheriff may charge for service of summons & compl on defendant, ...	2/3/79	G. JOHNSTON	Sat. Feb. 10	DO NOT PASS	2/19/79
HB 565	Simplify & modernize the annexation and detachment procedures, amending §§...	2/5/79	KESSLER	Tues. Feb. 13	AND AS AMENDED DO PASS	2/19/79
HB 554	Providing for organization, financing, administration, operation and maintenance of County Alternative Energy District...	2/5/79	VINCENT	Tues. Feb. 13	DO PASS	2/15/79

FEBRUARY 20, 1979
PROCEEDINGS OF THE
LOCAL GOVERNMENT COMMITTEE
HOUSE OF REPRESENTATIVES

The meeting was called to order at 12:30 p.m. by Chairman Hershel Robbins. The secretary called the roll and found all members present except Representative Sales. Representative Sales had also left a proxy for an executive session that would take place.

The purpose of the meeting was to conduct hearings and possible executive session.

HOUSE BILL 644: This bill was presented by Representative Stobie, of Thompson Falls. He very briefly stated this would allow for setting of county surveyors fees by resolution. He stated he didn't think there had been a change for a long time.

There were no proponents or opponents present. Hearing was then closed on House Bill 644.

HOUSE BILL 710: This bill was presented by Representative Ellison, District 73. Representative Ellison stated this would affect Section 7-13-231 and would authorize counties to set up and maintain refuse disposal districts and allow them to charge fees for the same. He stated if a person didn't use the service, they would still have to pay, as it would put on the tax bill. This would also allow for fees to go into operating the landfill.

Chairman Robbins then called for proponents.

Bill Romine, representing the Montana Solid Waste Contractors, spoke in support. He stated in addition to operation of the landfill, this would relieve people from paying a service charge for taking things to the landfill.

Opponents were then called for.

John Palagi, from Great Falls, private contractor, spoke in opposition, stating he also has to use the county landfill sites.

There were other opponents, also from Great Falls, stating they did not feel this would be a justified type of bill.

Louis Breeden , Flathead County Disposal Director, stated he was also opposed to the bill. He stated services would have to be provided for about 3 cents a day and this would be very costly for the few numbers of people serviced.

House Bill 710 (continued)

Art Woods also spoke in opposition. He stated that according to the bill people in the district could petition out and could then go to a private owner for hauling of refuse. This would leave the district without many people belonging and it would automatically be operating at a deficit.

Other opponents were Ralph Hahn, Helena valley landfil district. He stated he didn't have any problem now, but there could be problems in the future and he was in opposition.

Jack Anderson, of the State Department of Health and Environmental Services, stated that the law now allows for special circumstances, and those with special circumstances could take their cases to the Board.

Jimmy Knight, from Broadwater County, stated he was the County Sanitarian, and that their county has tried to look at all areas of enforcement and exceptions. He stated this bill would have a definite impact and he was opposed.

Dean Zennicker, from the Montana Association of Counties, also spoke in opposition.

There were other opponents present who did not testify. There were then a few questions from committee members. Hearing was then closed on House Bill 710.

HOUSE BILL 616: Representative Darryl Meyer presented the bill. He stated this would allow provision for counties to lease equipment without competitive bids. He stated the bill was fairly self-explanatory.

There were no proponents or opponents present. Hearing was then closed on House Bill 616.

HOUSE BILL 494: This bill was presented by Representative Dennis Nathe, District 1. Representative Nathe introduced Doug Olson, attorney for the Department of Health. A prepared statement was given to committee members and it is attached as testimony. This would allow the State Department of Health to be set up as administrator for this bill. Included would be standards set up by the EPA for water quality. The bill would prevent use by 1981 of water that would exceed present levels.

Also present was Art Clarkson from the Water Quality Department, in the event there was any question.

Committee members did not have any questions and hearing was then closed on House Bill 494.

HOUSE JOINT RESOLUTION 14, presented by Orren Vinger, District 3. Representative Vinger stated this would allow for payment in lieu of taxes on lands controlled by the BIA, Bureau of Indian Affairs. He stated there was a considerable amount of acres in the state and this would give these lands considerable assistance.

Bill Bigspring, County Commissioner, stated they have approximately 1,896,000 acres that would be affected. They stated this would be of considerable assistance to them in dealing with the county putting roads and also use of highway 2 running through their property. He stated he felt the federal government was responsible for the areas in lieu of taxes.

Dan Mizner, representing the League of Cities and Towns, also spoke on behalf of the 17 towns that have Indian lands, stating this would give them considerable assistance.

There were no further proponents present. There were no opponents present.

Representative Vinger then gave brief closing remarks.

There was then discussion by committee members. This included the fact that on these Indian lands controlled strictly by the federal government that they are tax exempt.

Hearing was then closed on the House Joint Resolution 14.

The committee then went into Executive Session.

Representative Gould moved that House Joint Resolution 14 be adopted. Vote was called. All present voted "aye." Motion carried that House Joint Resolution 14 be adopted.

HOUSE BILL 494: Representative Gould moved that House Bill 494 do pass. All voted "aye" except Representative Pistoria. The vote was 16-1. House Bill 494 was given a do pass recommendation.

HOUSE BILL 616: Representative Hurwitz moved do pass on House Bill 616. Question was called. All voted "aye." The vote was unanimous. Motion carried that House Bill 616 do pass.

HOUSE BILL 644: Representative Bertelsen moved do pass on on House Bill 644. All voted "aye" and motion carried unanimously that House Bill 644 do pass.

HOUSE BILL 710: Representative Pistoria moved do not pass. Representative Gould inquired as to what was the matter with this bill. Representative Pistoria stated there would be a lack of supervision. Representative Gould then stated he would abstain from voting. Question was called. All

46th LEGISLATIVE SESSION

COMMITTEE ON LOCAL GOVERNMENT -- HOUSE BILLS

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
		~~3-8;3-23~~							
HB 494	2-23	3-24	3-24					3-24	
HB 498	2-16	3-8	3-8				3-8		
HB 553	2-22	3-15	3-15				3-15		
HB 559	2-28	3-6	3-6				3-6		
HB 610	2-22	3-6	3-6				3-6		
HB 616	2-23	3-17	3-17					3-17	
HB 644	2-23	3-6	3-6				3-6		
HB 661	2-23	3-13	3-13				3-13		
HB 670	2-20	3-3	3-3				3-3		
HB 673	3-13	3-15	3-15						3-15
HB 682	2-23	3-20	3-20				3-20		
HB 683	2-23	3-1	3-1				3-1		
HB 687	2-23	3-10;3-17	3-17				3-17		
HB 693	2-21	3-13	3-13				3-13		
HB 696	2-23	3-15	3-15				3-15		
HB 698	2-23	3-13	3-13				3-13		
HB 704	2-20	3-15;3-20 3-22	3-22					3-22	

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

March 8, 1979

The meeting of the Local Government Committee was called to order by Chairman George McCallum on March 8, 1979, at 12:40 in Room 405 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senator Peterson, who was excused.

Dennis Taylor, staff researcher, was also present.

Many visitors were in attendance.

CONSIDERATION OF HOUSE BILL 399: Representative Hal Harper, of District 30, chief sponsor of House Bill 399, gave a brief resume. This bill is an act to authorize the board of county commissioners to establish compensation for coroners. Mr. Harper stated the coroners salaries do not have any relationship to the present salaries of today. These salaries should have been put with the board of county commissioners.

Mike Meloy, of Helena, stood in support of the bill. He stated that HB 399 would change from the old method of compensation for coroners and put it in the hands of the county commissioners.

Micky Nelson, Lewis and Clark County Coroner, stated his support of the bill. Mr. Nelson stated that the present system must be changed if we are going to keep coroners in Montana. It should be a pay status instead of a donation. 1949 was the last time coroners in first class counties were given a raise.

With no further proponents, Senator McCallum called on the opponents. Hearing none, Representative Harper made the closing remarks. He stated that this will move the coroners from a fee basis to a salary basis and put them under the jurisdiction of the county commissioners. Coroners are on call all of the time.

The meeting was opened to a question and answer period from the Committee.

CONSIDERATION OF HOUSE BILL 442: Representative Darryl Meyer, of District 42, chief sponsor of HB 442, gave a brief resume on the bill. This bill is an act to increase the minimum and maximum salaries of district court reporters.

Laurie Diemert, a court reporter for Judge Bennett, stated her support of the bill. Ms. Diemert explained the duties of her job. Court reporters are required to make verbatim record of proceedings in court, to act as an aid, assistant and secretary to the district judge. Court reporters are paid by the county which he or she

Gordon McGowan, representing the Montana Railroad Association, stood in opposition to the bill. Mr. McGowan stated the effect of this bill would be to virtually eliminate advance notice of the intent to create a special district. The Corporation's position is that notice requirements should be made more comprehensive, not less. The deletion of the mailed notice requirement is especially objectionable since this is the most effective notice requirement in the statutes.

There were no further opponents, so the meeting was opened to a question and answer period from the Committee. Discussion was held.

CONSIDERATION OF HOUSE BILL 494: Representative Dennis Nathe, of District 1, sponsor of House Bill 494, gave a brief resume. This bill is an act to generally revise, clarify, and amend the laws relating to public water supplies. This bill was introduced at the request of the Department of Health. Representative Nathe stated that this would bring the state water act in line with the federal act.

Doug Olsen, of the Department of Health, stood in support of the bill. The Montana Public Water Supply Act was first enacted in 1907. Although it has been amended and recodified several times, its main goal has remained unchanged. Mr. Olsen stated also that the intent of this bill is to bring this act into compliance with the federal act. Mr. Olsen handed out written statements to the Committee members. (See attachment.)

Art Clarkson, of the Department of Health and Environmental Sciences, stated that since the bill was presented in the House, the Department has had an inquiry from Northern Tier Pipeline regarding the authority over the pipelines on water sheds. The Department only has general authority under the water pollution conrol laws. Mr. Clarkson offered an amendment to include pipelines on page 8, line 20 of the bill. (See attachment.)

With no further proponents, Chairman McCallum called on the opponents.

Dan Mizner, of the League of Cities and Towns, appeared in opposition to the bill. Mr. Mizner stated that the taxpayers do not have any recourse other than going to the courts. He stated he did not object to the bill in general, however, he was concerned about page 10, line 1. The proposed amendment clears this up somewhat.

There were no further opponents to the bill. Therefore, Representative Nathe closed by asking the Committee for a favorable report in their actions on the bill.

The meeting was opened to a question and answer period from the Committee. Discussion was held.

46th Legislative Session

House Bill 494

An Act to Generally Revise Clarify, and Amend the Laws Relating to Public Water Supplies; Amending Sections 75-6-102 through 75-6-104, 75-6-106, 75-6-107, 75-6-112, and 75-6-113, MCA.

Comments of the Department of Health and Environmental Sciences in support of House Bill 494, prepared by Douglas Olson, staff attorney.

The Montana Public Water Supply Act was first enacted in 1907 by sections 1-14, chp. 177. Although it has been amended and recodified several times, its main goal has remained unchanged. It granted "general oversight and care" over all state waters used for domestic purposes to the Board of Health and required that all persons submit to the Board for its review and approval all proposed systems of water supply or drainage and sewage disposal which were to be built, installed, or enlarged. A one-thousand dollar fine, one-year imprisonment, or both was provided for violations.

In 1974 Congress passed the "Federal Safe Drinking Water Act" (hereinafter cited as FSDWA), 42 USC 300f, as an amendment to the U.S. Public Health Service Act. Its primary goal was to assure that the public was provided with safe drinking water. It required that inventories be taken of all public water supplies, ordered that a study be undertaken to establish the maximum permissible concentrations of contaminants that could exist and still have safe drinking water, and set up certain enforcement procedures. Public water supplies were not to exceed the maximum contaminant levels (mcl's) unless they had been granted a variance or an exemption. A variance might be granted if the supply was technologically infeasible at this time to treat whereas an exemption might be granted if the supply was primarily financially unable to presently comply with the mcl. Congress intended that the FSDWA be enforced at the state level if the respective states could adequately implement it.

The Montana Department of Health and Environmental Sciences was designated as the primary enforcement agency for administering the FSDWA in Montana by the U.S. EPA. The Montana Legislature in 1977 amended the Montana Public Water Supply Act then 69-4901 et seq. R.C.M. 1947, in order to make it also the means for enforcement of the FSDWA.

Almost two years have passed since then and it has been found that several housekeeping amendments to the Montana Public Water Supply Act are necessary for clarification.

The respective amendments being sought are explained below:

AMENDMENT NO.

1. 75-6-102 Definitions

(5) This adds a definition for the "Federal Safe Drinking Water Act", referencing where it and the federal regulations implementing it may be found.

(7) This proposes a new definition for "maximum contaminant level". This term is used several times in the existing act but is not defined at the present time. The proposed definition is taken from the federal act.

(9) This proposes that the definition of "person" be amended so that it more closely resembles the one found in the federal act.

(11) The definition of "public water supply" is proposed to be amended to correspond more closely with the federal act.

2. 75-6-103 Duties of the Board

Proposed amendments to subsections (a) and (c) are made with the intent to clarify ambiguous terminology; subsection (d) is proposed to be amended to require that the public be notified when an "exemption" as well as a variance is granted in order to comply with federal regulations. This assumes that the Board is authorized to promulgate rules governing the issuance of exemptions under the proposed amendment to subsection (h).

3. 75-6-104 Duties of Department

Proposed amendments to this section would substitute the word "quality" for purity, and "treating" for purifying. The present terminology is subject to differing interpretations.

4. 75-6-107 Variances and Exemptions

This section presently authorizes the department to grant variances to public water supply systems which exceed the maximum contaminant levels established by the board of health and environmental sciences. The proposed amendment would statutorily authorize the department to grant "exemptions" to those public water supply systems which satisfy

the federal requirements adopted by the board as rules.

5. 75-6-112 Prohibited acts.

The proposed amendment to this act is sought to replace terminology that is difficult to define. "Polluting matter of any kind" is replaced with the terms "sewage, drainage, industrial waste or other waste", all of which are defined in the act already. "Pollute the quality" is also replaced with the words "cause pollution".

A new proposed subsection (5) would statutorily prohibit the use of public water supply systems which exceed the maximum contaminant levels unless the system was granted a variance or exemption or had an application for one pending. This satisfies the intent of the FSDWA.

6. 75-6-113 Penalties

Section 75-6-111(2) presently authorizes the department to seek an injunction to enjoin violations of the Public water supply act or to seek a civil penalty as provided in section 75-6-113. Although the department is presently authorized to seek a civil penalty, 75-6-113, does not specify the amount of the penalty. The federal act authorizes the federal government to seek up to $5000 per day of violation. The amount of the civil penalty proposed by amendment to this section would be the same as the amount presently authorized to be collected as a criminal penalty, $50 to $500 per day of violation. It's believed that this amount is reasonable and would serve as an effective deterent to potential violators. A civil penalty is desirable in that it does not leave someone who has been found guilty with the stigma of a "criminal" conviction.

7. 75-6-110 Master Planning Areas

This is a proposed new section that would clarify the inter-relationship between the Montana Public Water Supply Act's requirements for review of water and sewer facilities and those found in the Sanitation in Subdivisions Act as they pertain to adopted master planning areas. It would specifically require that the lot fees and certification under the latter act be received by the department prior to any review and approval being undertaken pursuant to the public water supply act. At the present time the department has had some difficulty receiving the lot fees and certifications from some sources.

The amendments sought by House Bill 494 if approved by the legislature would lead to the more efficient administration and enforcement of the Montana Public Water Supply as explained above.

Respectfully submitted,

Douglas B. Olson

Douglas B. Olson, Attorney

46th Legislature

HOUSE BILL 494 March 8, 1979

Proposed amendments by the Department of Health & Environmental Sciences presented to the Senate Local Government Committee for its consideration.

1. page 8, line 20
   following: "logging camp,"
   insert: "PIPELINE,"

2. page 10, line 1
   strike: "Enforcement remedies under this section"
   insert: "THE CIVIL PENALTY PROVIDED FOR IN SUBSECTION (2) IS IN LIEU OF THE CRIMINAL PENALTY PROVIDED FOR IN SUBSECTION (1); ALL OTHER ENFORCEMENT REMEDIES"

Date Day 8

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
GEORGE MCCALLUM, CHAIRMAN	✓		
LLOYD LOCKREN, VICE CHAIRMAN	✓		
MAX CONOVER	✓		
JESSE A. O'HARA	✓		
BOB PETERSON			✓
A. T. (TOM) RASMUSSEN	✓		
PETE STORY	✓		
BILL THOMAS	✓		
ROBERT D. WATT	✓		

Each Day Attach to Minutes.

SENATE

SENATE _____ COMMITTEE

BILL _____ VISITORS' REGISTER DATE _____

Please note bill no.

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
[illegible]	[illegible]	[illegible]	✓	
[illegible]	[illegible]	[illegible]	✓	
[illegible]	[illegible]	[illegible]	✓	
Tom Conrad	self	[illegible]	✓	
[illegible]	Self	[illegible]	✓	
[illegible]	[illegible]	[illegible]	✓	
G "Pete" Simkins	State Auditor	HB-498	✓	
[illegible]	Coroner	HB498		✓
[illegible]	[illegible]	HB498		✓
[illegible]	[illegible]	[illegible]	✓	
[illegible]	[illegible]	[illegible]	✓	
[illegible]	[illegible]	[illegible]	✓	
[illegible]	[illegible]	[illegible]		✓
[illegible]	Mont Rehabilitation	HB34		✓
[illegible]	[illegible]	HB 498	✓	
[illegible]	[illegible]	HB 498	✓	
Lee Wilson	Mt St Firemen's Assn	[illegible]	✓	
[illegible]	[illegible]	[illegible]	✓	
[illegible]	[illegible]	[illegible]	✓	
Rep Dennis Nathe		[illegible]	✓	
IT, Sgt Ed Ellis	Mont State Firemen's Ass.	HB-498	✓	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

NAME: Andrew W. Clarke DATE: [illegible]

ADDRESS: [illegible]

PHONE: [illegible]

REPRESENTING WHOM? DHES

APPEARING ON WHICH PROPOSAL: HB 494

DO YOU: SUPPORT? ✓ AMEND? ✓ OPPOSE? _____

COMMENTS: Since Bill was drafted DHES has had an ongoing dialogue with the Pharmacy Association and Dept. We feel Dept only has general authority with this bill. Would like to amend 75-6-112(5) to include "pharmacies" on page 8 line 20 of HB 494.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Rep. Dennis [illegible] DATE: 3-8-79

ADDRESS: Redstone

PHONE: _____

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: H.B. 494

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

Carrying Bill

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

MARCH 23, 1979

The meeting of the Local Government Committee was called to order by Chairman George McCallum on Friday, March 23, 1979 at 12 Noon in Room 405 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senator Lockrem, who was excused.

Dennis Taylor, Staff Researcher, was also in attendance.

There were some visitors in attendance also. (See attachment.)

CONSIDERATION OF HOUSE BILL 81: This bill is regarding local government review of sanitary requirements for subdivisions.

Senator Story stated that the problem with this bill is that Mr. Casne of the Subdivision Bureau of the Department of Health and Environmental Sciences, will loose money for his department without Mr. Casne 's proposed amendments.

DISPOSITION OF HOUSE BILL 34: This bill is in regards to changing the notice requirements for the creation of a refuse disposal district.

A motion was made by Senator Thomas that the bill be amended on page 2, line 2, that "notice must be a display advertisement of at least 12 column inches". Motion carried unanimously.

Senator Lockrem brought up the question of the proposed amendments from the railroads. Mr. Gordon McGowan, lobbyist for the railroads, stated that the railroad companies are based out of states and would not be able to see the ads in the newspaper.

A motion was made by Senator Lockrem that House Bill 34 BE NOT CONCURRED IN, as amended. Motion failed. (See attachment.)

A motion was made by Senator Conover to accept the proposed amendments from the railroads. Motion failed.

A motion was made by Senator Watt that House Bill 34 BE CONCURRED IN, as amended. Motion carried. (See attachment.)

DISPOSITION OF HOUSE BILL 494: This bill is in regards to revising and clarifying laws related to public water supplies.

A motion was made by Senator Thomas to amend this bill on page 9, strike subsection 2-4. Motion carried.

Senator Story stated that the new section is unconstitutional.

A motion was made by Senator Lockrem to amend the bill on lines 20-25 and page 10, lines 1-13. Motion carried.

A motion was made by Senator Watt that on page 8, line 20 the word "pipline" be inserted. Motion failed.

A motion was made by Senator O'Hara to strike Section 7, on page 9. Motion carried.

A motion was made by Senator Watt that House Bill 494 BE CONCURRED IN, as amended. Motion failed. (See attachment.)

DISPOSITION OF HOUSE BILL 879: This bill will review and clarify the Subdivision and Platting Act.

Senator Story, Chairman of the subcommittee, went over the bill and the possible amendments which the Committee felt would improve the bill. A motion was made by Senator Story to accept the proposed amendments. Motion carried.

A motion was made by Senator Lockrem that the bill be amended on page 8, line 24, and page 9 lines 1-3. (See attached Committee report.) Motion carried. (See attachment)

A motion was made by Senator Story that House Bill 879, BE CONCURRED IN, as amended. Motion carried.

DISPOSITION OF HOUSE BILL 46: This bill revises the Subdivision and Platting Act and related landuse statutes.

A motion was made by Senator Story that House Bill 46 BE NOT CONCURRED IN.

A substituted motion was made by Senator Watt that House Bill 46, BE CONCURRED IN. Motion failed. (See attachment.)

Senator Story's motion was voted on. Motion carried. (See attachment.)

DISPOSITION OF HOUSE BILL 81: This bill provides for expanded local government review of sanitary requirements for subdivisions.

It was pointed out that nobody seems to like this bill

Date March 29

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
GEORGE MCCALLUM, CHAIRMAN	✓		
LLOYD LOCKREN, VICE CHAIRMAN			✓
MAX CONOVER	✓		
JESSE A. O'HARA	✓		
BOB PETERSON	✓		
A. T. (TOM) RASMUSSEN	✓		
PETE STORY	✓		
BILL THOMAS	✓		
ROBERT D. WATT	✓		

Each Day Attach to Minutes.

SENATE

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

MARCH 24, 1979

The meeting of the Local Government Committee was called to order by Chairman George McCallum on Saturday, March 24 at 12 noon in Room 405 of the State Capitol Building.

ROLL CALL: All members were present with the excpetions of Senators Lockrem , Conover, and Peterson.

Dennis Taylor, staff researcher, was also present.

DISPOSITION OF HOUSE BILL 494: This bill revises, and clarifies laws relating to public water supplies.

A motion was made by Senator Story that the Committee reconsider their actions on this bill. Motion carried.

A motion was made by Senator Story to amend House Bill 494 on page 9, strike lines 11 through 13 on page 10; and to amend the title as needed. Motion carried.

A motion was made by Senator Story that House Bill 494 BE CONCURRED IN, as amended. Motion carried.

DISPOSITION OF HOUSE BILL 81: This bill is in regards to providing review of sanitary requirements for subdivisions.

Senator Story reviewed the proposed amendments from the subcommittee to House Bill 81. He stated this bill as amended will give more local control. (Amendments are attached.)

A motion was made by Senator Story that the proposed amendments be adopted. Motion carried with all voting "yes" except Senator Rasmussen, who abstained.

Senator Thomas moved that the bill be amended on page 11, line 5, insert: "(2) the subdivisions described in 76-4-128 (1) are not subject to sanitary restrictions if the local governing body certifies that the subdivisions have met the requirements of this part." The Board of Health will receive the money when they do the job. Motion carried with everyone voting "yes" except Senator Rasmussen who voted "no".

Mr. Dan Mizner, of the League of Cities and Towns, stated that a qualified sanitarian is certified by the state.

46th Legislative Session

House Bill 494

An Act to Generally Revise Clarify, and Amend the Laws Relating to Public Water Supplies; Amending Sections 75-6-102 through 75-6-104, 75-6-106, 75-6-107, 75-6-112, and 75-6-113, MCA.

Comments of the Department of Health and Environmental Sciences in support of House Bill 494, prepared by Douglas Olson, staff attorney.

The Montana Public Water Supply Act was first enacted in 1907 by sections 1-14, chp. 177. Although it has been amended and recodified several times, its main goal has remained unchanged. It granted "general oversight and care" over all state waters used for domestic purposes to the Board of Health and required that all persons submit to the Board for its review and approval all proposed systems of water supply or drainage and sewage disposal which were to be built, installed, or enlarged. A one-thousand dollar fine, one-year imprisonment, or both was provided for violations.

In 1974 Congress passed the "Federal Safe Drinking Water Act" (hereinafter cited as FSDWA), 42 USC 300f, as an amendment to the U.S. Public Health Service Act. Its primary goal was to assure that the public was provided with safe drinking water. It required that inventories be taken of all public water supplies, ordered that a study be undertaken to establish the maximum permissible concentrations of contaminants that could exist and still have safe drinking water, and set up certain enforcement procedures. Public water supplies were not to exceed the maximum contaminant levels (mcl's) unless they had been granted a variance or an exemption. A variance might be granted if the supply was technologically infeasible at this time to treat whereas an exemption might be granted if the supply was primarily financially unable to presently comply with the mcl. Congress intended that the FSDWA be enforced at the state level if the respective states could adequately implement it.

The Montana Department of Health and Environmental Sciences was designated as the primary enforcement agency for administering the FSDWA in Montana by the U.S. EPA. The Montana Legislature in 1977 amended the Montana Public Water Supply Act then 69-4901 et seq. R.C.M. 1947, in order to make it also the means for enforcement of the FSDWA.

Almost two years have passed since then and it has been found that several housekeeping amendments to the Montana Public Water Supply Act are necessary for clarification.

The respective amendments being sought are explained below:

AMENDMENT NO.

1. 75-6-102 Definitions

(5) This adds a definition for the "Federal Safe Drinking Water Act", referencing where it and the federal regulations implementing it may be found.

(7) This proposes a new definition for "maximum contaminant level". This term is used several times in the existing act but is not defined at the present time. The proposed definition is taken from the federal act.

(9) This proposes that the definition of "person" be amended so that it more closely resembles the one found in the federal act.

(11) The definition of "public water supply" is proposed to be amended to correspond more closely with the federal act.

2. 75-6-103 Duties of the Board

Proposed amendments to subsections (a) and (c) are made with the intent to clarify ambiguous terminology; subsection (d) is proposed to be amended to require that the public be notified when an "exemption" as well as a variance is granted in order to comply with federal regulations. This assumes that the Board is authorized to promulgate rules governing the issuance of exemptions under the proposed amendment to subsection (h).

3. 75-6-104 Duties of Department

Proposed amendments to this section would substitute the word "quality" for purity, and "treating" for purifying. The present terminology is subject to differing interpretations.

4. 75-6-107 Variances and Exemptions

This section presently authorizes the department to grant variances to public water supply systems which exceed the maximum contaminant levels established by the board of health and environmental sciences. The proposed amendment would statutorily authorize the department to grant "exemptions" to those public water supply systems which satisfy

the federal requirements adopted by the board as rules.

5. 75-6-112 Prohibited acts.

The proposed amendment to this act is sought to replace terminology that is difficult to define. "Polluting matter of any kind" is replaced with the terms "sewage, drainage, industrial waste or other waste", all of which are defined in the act already. "Pollute the quality" is also replaced with the words "cause pollution".

A new proposed subsection (5) would statutorily prohibit the use of public water supply systems which exceed the maximum contaminant levels unless the system was granted a variance or exemption or had an application for one pending. This satisfies the intent of the FSDWA.

6. 75-6-113 Penalties

Section 75-6-111(2) presently authorizes the department to seek an injunction to enjoin violations of the Public water supply act or to seek a civil penalty as provided in section 75-6-113. Although the department is presently authorized to seek a civil penalty, 75-6-113, does not specify the amount of the penalty. The federal act authorizes the federal government to seek up to $5000 per day of violation. The amount of the civil penalty proposed by amendment to this section would be the same as the amount presently authorized to be collected as a criminal penalty, $50 to $500 per day of violation. It's believed that this amount is reasonable and would serve as an effective deterent to potential violators. A civil penalty is desirable in that it does not leave someone who has been found guilty with the stigma of a "criminal" conviction.

7. 75-6-110 Master Planning Areas

This is a proposed new section that would clarify the inter-relationship between the Montana Public Water Supply Act's requirements for review of water and sewer facilities and those found in the Sanitation in Subdivisions Act as they pertain to adopted master planning areas. It would specifically require that the lot fees and certification under the latter act be received by the department prior to any review and approval being undertaken pursuant to the public water supply act. At the present time the department has had some difficulty receiving the lot fees and certifications from some sources.

The amendments sought by House Bill 494 if approved by the legislature would lead to the more efficient administration and enforcement of the Montana Public Water Supply as explained above.

Respectfully submitted,

Douglas B. Olson

Douglas B. Olson, Attorney

46th Legislature

HOUSE BILL 494 March 8, 1979

Proposed amendments by the Department of Health & Environmental Sciences presented to the Senate Local Government Committee for its consideration.

1. page 8, line 20
   following: "logging camp,"
   insert: "PIPELINE,"

2. page 10, line 1
   strike: "Enforcement remedies under this section"
   insert: "THE CIVIL PENALTY PROVIDED FOR IN SUBSECTION (2) IS IN LIEU OF THE CRIMINAL PENALTY PROVIDED FOR IN SUBSECTION (1); ALL OTHER ENFORCEMENT REMEDIES"

Date 2/22/79

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
GEORGE MCCALLUM, CHAIRMAN	✓		
LLOYD LOCKREN, VICE CHAIRMAN			✓
MAX CONOVER			✓
JESSE A. O'HARA	✓		
BOB PETERSON			✓
A. T. (TOM) RASMUSSEN	✓		
PETE STORY	✓		
BILL THOMAS	✓		
ROBERT D. WATT	✓		

Each Day Attach to Minutes.

SENATE

SENATE COMMITTEE LOCAL GOVERNMENT

Date March 23 House Bill No. 494 Time

NAME	YES	NO
GEORGE MCCALLUM, CHAIRMAN	abstained	
LLOYD LOCKREM, VICE CHAIRMAN		✓
MAX CONOVER	✓	
JESSE A. O'HARA		✓
BOB PETERSON		✓
A. T. (TOM) RASMUSSEN	✓	
PETE STORY		✓
BILL THOMAS		✓
ROBERT D. WATT	✓	

Secretary

George McCallum
Chairman

Motion: A motion was made by Senator Watt that House Bill 494 BE CONCURRED IN. Motion failed.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 24 19 79

MR. President:

We, your committee on Local Government

having had under consideration House Bill No. 494

Nathe (Story)

Respectfully report as follows: That House Bill No. 494,

third reading bill, be amended as follows:

1. Title, line 7.
Following: "75-6-107"
Strike: ","
Insert: "AND"
Following: "75-6-112"
Strike: "AND 75-6-113,"

2. Page 9, line 11.
Strike: lines 11 through 13 on page 10 in their entirety.

~~BE PASS~~ And, as so amended, BE CONCURRED IN

Chairman.

STATE PUB. CO.
Helena, Mont.

HOUSE BILL NO. 494

INTRODUCED BY NATHE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE, CLARIFY, AND AMEND THE LAWS RELATING TO PUBLIC WATER SUPPLIES; AMENDING SECTIONS 75-6-102 THROUGH 75-6-104, 75-6-106, 75-6-107, AND 75-6-112, ~~AND 75-6-113~~, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-6-102, MCA, is amended to read:

"75-6-102. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.

(2) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes creating a hazard to human health.

(3) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(4) "Drainage" means rainfall, surface, and subsoil water.

(5) "Safe Drinking Water Act" means 42 USC 300f and regulations at Title 40, CFR, Parts 141 and 142.

~~(5)~~(6) "Industrial waste" means any waste substance from the processes of business or industry or from the development of any natural resource, together with any sewage that may be present.

(7) "Maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to any user of a public water supply system.

~~(6)~~(8) "Other waste" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

~~(7)~~(9) "Person" means any individual, ~~firm~~, corporation, ~~water or ice company, public institution~~, associations, partnership, municipality, or other political subdivision of the state, or federal agency.

~~(8)~~(10) "Pollution" means contamination or other alteration of the physical, chemical, or biological properties of any state waters which exceeds that permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor or the discharge or introduction of any liquid, gaseous, solid, radioactive, or other substance into any state water which will or is likely

REFERENCE BILL

to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife. A discharge which is authorized under the pollution discharge permit rules of the board is not pollution under this chapter.

~~(9)~~ (11) "Public water supply system" means a system for the provision of water for human consumption from any community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that serves 10 or more families, or 25 or more persons for daily, or has at least 10 service connections at least 60 days out of the calendar year.

~~(10)~~ (12) "Sewage" means water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings, together with groundwater infiltration and surface water present.

~~(11)~~ (13) "State waters" means any body of water, irrigation system, or drainage system, either surface or underground."

Section 2. Section 75-6-103, MCA, is amended to read:

"75-6-103. Duties of the board. (1) The board has general supervision over all state waters which are directly or indirectly being used by a person for a public water supply system or domestic purposes or as a source of ice.

(2) The board shall adopt rules and standards concerning:

(a) maximum contaminant levels for waters that are or will be used as for a public water supply system;

(b) fees for services rendered by the department in analyzing water and conducting inspections;

(c) monitoring, recordkeeping, and reporting by persons who own or operate a public water supply system;

(d) requiring public notice to all users of a public water supply system when a person has been granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;

(e) the issuance of licenses by the department to laboratories that conduct analysis of public water ~~supplies~~ supply systems;

(f) the siting, construction, operation, and modification of a public water supply system;

(g) the collection and analysis of samples of water used for drinking or domestic purposes;

(h) the issuance of variances and exemptions as authorized by the federal Safe Drinking Water Act and this part; and

(i) any other requirement necessary for the protection of public health as described in this part.

(3) The board may issue orders necessary to fully

implement the provisions of this part."

Section 3. Section 75-6-104, MCA, is amended to read:

"75-6-104. Duties of department. The department shall:

(1) upon its own initiative or complaint to the department, to the mayor or health officer of a municipality, or to the managing board or officer of a public institution, make an investigation of alleged pollution of a water supply system and, if required, prohibit the continuance of the pollution by ordering removal of the cause of pollution;

(2) have waters examined to determine their ~~purity~~ quality and the possibility that they may endanger public health;

(3) consult and advise authorities of cities and towns and persons having or about to construct systems for water supply, drainage, wastewater, and sewage as to the most appropriate source of water supply and the best method of assuring its ~~purity~~ quality;

(4) advise persons as to the best method of ~~purifying~~ treating and disposing of their drainage, sewage, or wastewater with reference to the existing and future needs of other persons and to prevent pollution;

(5) consult with persons engaged in or intending to engage in manufacturing or other business whose drainage or sewage may tend to pollute waters as to the best method of

preventing pollution;

(6) collect fees for services rendered in analyzing water and conducting inspections to cover costs of the service and deposit the fees collected in an earmarked revenue fund for use by the department;

(7) establish and maintain experiment stations and conduct experiments to study the best methods of ~~purifying~~ treating water, drainage, wastewater, sewage, and industrial waste to prevent pollution, including investigation of methods used in other states;

(8) enter on premises at reasonable times to determine sources of pollution or danger to water ~~supplies~~ supply systems and whether rules and standards of the board are being obeyed;

(9) enforce and administer the provisions of this part;

(10) establish a plan for the provision of safe drinking water under emergency circumstances;

(11) maintain an inventory of public water ~~supplies~~ supply systems and establish a program for conducting sanitary surveys; and

(12) enter into agreements with local boards of health wherever appropriate for the performance of surveys and inspections under the provisions of this part."

Section 4. Section 75-6-106, MCA, is amended to read:

"75-6-106. Licensing of laboratories. (1) No laboratory analysis of water taken from a public water supply system or any report of such an analysis required by this part or a rule adopted under this part may be accepted by the department or board unless the analysis or report is made by the laboratory of the department or by a laboratory licensed by the department for such purposes. The department shall issue a license to any laboratory that can meet criteria for licensing established in the rules adopted by the board.

(2) An application for a license under this section shall be made on forms furnished by the department.

(3) A person aggrieved by a decision of the department to grant, deny, or revoke a license may appeal the department's decision to the board as provided in the Montana Administrative Procedure Act."

Section 5. Section 75-6-107, MCA, is amended to read:

"75-6-107. ~~Variance~~ Variances and exemptions. The department may grant a variance or exemption from the requirements of this part or the rules adopted under this part pursuant to the terms and conditions of the variance and exemption rules adopted by the board. A variance or exemption granted pursuant to this section shall be accompanied by a compliance plan specifying a time schedule for compliance. A person aggrieved by a decision of the

department to grant, deny, revoke, or modify a variance or exemption may appeal the department's decision to the board as provided in the Montana Administrative Procedure Act."

Section 6. Section 75-6-112, MCA, is amended to read:

"75-6-112. Prohibited acts. A person shall not:

(1) discharge ~~polluting--matter--of--any-kind~~ sewage, drainage, industrial waste, or other wastes that will ~~pollute--the-quality~~ cause pollution of state waters used by a person for domestic use or as a source of for a public water supply ~~by-a-city,-town,-public-institution,~~ system or water or ice company;

(2) discharge ~~human--excrement,~~ sewage, drainage, ~~refuse,-or-polluting-matter~~ industrial waste, or other waste into any state waters or on the banks of any state waters or into any abandoned or operating water well unless the sewage, drainage, ~~refuse,--or--polluting--water~~ industrial waste, or other waste is ~~purified-to-render-it-harmless~~ treated as prescribed by the state board;

(3) build or operate any railroad, logging road, logging camp, or electric or manufacturing plant of any kind on any watershed of a public water supply system unless:

(a) the water supply is protected from pollution by sanitary precautions prescribed by the state board; and

(b) a permit has been issued by the department after approval of detailed plans and specifications for sanitary

precautions;

(4) construct, alter, or extend any system of water supply, water distribution, sewer, drainage, wastewater, or sewage disposal without first submitting necessary maps, and plans, and specifications to the department for its advice review and approval.;

(5) operate or maintain any public water supply system which exceeds a maximum contaminant level established by the board unless he has been granted or has an application pending for a variance or exemption pursuant to this part."

Section 7. Section 75-6-113, MCA, is amended to read:

"75-6-113. Penalty. Penalties. (1) Any A person violating who violates this part or any rule or order of the board or department issued under the provisions of this part shall be guilty of a misdemeanor and upon conviction shall be fined not less than $50 or more than $500. Each day upon which a violation of this part or any rule or order of the board under it occurs shall be considered a separate offense.

(2) A person who violates this part or any rule or order of the board issued under the provisions of this part is subject also to a civil penalty of not less than $50 or more than $500. Each day upon which a violation of this part or any rule or order of the board under it occurs is a separate violation.

(3) Enforcement remedies under this section are cumulative, and enforcement of this part or rules or orders issued under it by injunction or other appropriate remedy is not barred.

(4) Civil fines collected pursuant to this section shall be deposited in the state general fund."

NEW SECTION. Section 8. Review of master planning areas. Maps, plans, and specifications required by 75-6-112(4) may not be reviewed or approved by the department for master planning areas adopted pursuant to Title 76, chapter 3, until the department has received from the local governing body the lot fees and notices of certification required by 76-4-105(2) and 76-4-127.

Section 7. Saving clause. This act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this act.

Section 8. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-

March 24, 1979

SENATE STANDING COMMITTEE REPORT
(Local Government)

That House Bill No. 494, third reading bill, be amended as follows:

1. Title, line 7.
Following: "75-6-107"
Strike: ","
Insert: "AND"
Following: "75-6-112"
Strike: "AND 75-6-113,"

2. Page 9, line 11.
Strike: lines 11 through 13 on page 10 in their entirety.